IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.729 OF 2005
IN
NOTICE OF MOTION NO.1216 OF 2005
IN
SUIT NO.1155 OF 2005

Vama Motors Private Ltd. & anr. Appellants
vs.
Vama Apparels (India) Private Ltd. & ors. Respondents

Mr.Pradeep Sancheti i/b.M/s.Carwford Bayley & Co. for the appellants.

Mr.F.E.Devitre with Mr.Shiraz Rustomji i/b.M/s.Federal & Rashmikant for the respondents.

CORAM : R.M. LODHA &
D.G. KARNIK, JJ.

DATED : 14th November 2005

P.C.

Heard Mr.Pradeep Sancheti, the learned counsel for the appellants and Mr.F.E.Devitre, the learned senior counsel for the respondents.

2. For the reasons indicated in the impugned order by the learned motion Judge, with which we agree, we are satisfied that there was no case made out by the plaintiffs for appointment of Court Receiver. The material placed on record by the plaintiff does not prima facie suggest that on or around 17th January 2005, without consent or knowledge of plaintiffs, the defendants came into possession of the disputed

premises. As a matter of fact, it can be inferred from the available material at this stage that after the car business was discontinued by the plaintiffs somewhere in the year 2001, the suit premises came to be used by the plaintiffs.

3. The interim order of injunction fully protects the interest of the plaintiffs. The facts and circumstances do not warrant appointment of Court Receiver.

4. The appeal, therefore, does not deserve to be admitted and it is dismissed in limine.

5. Needless to say that if the changed circumstances warrant modification of the impugned order, it will be open to the plaintiffs to apply for appropriate order for which liberty has already been given by the learned motion Judge to the plaintiffs.

(R.M.LODHA, J.)

(D. G. KARNIK, J.)